

1/10/08

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
BY: SHARON FRASE
One St. Andrew's Plaza
New York, New York 10007
(212) 637-2329

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOC #:

DATE FILED: 8/18/2008

UNITED STATES OF AMERICA

- v. -

\$6,700 in United States Currency,

Defendant-in-rem

STIPULATION AND ORDER
OF SETTLEMENT

07 Civ. 11160 (JGK)

WHEREAS, on December 11, 2007, the United States of America filed a Verified Complaint and Warrant in Rem against the above-captioned property (the "Defendant Funds"), on the ground that the Defendant Funds are subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a) as monies furnished in exchange for a controlled substance in violation of the federal narcotics laws and proceeds traceable to such exchanges; and

WHEREAS, on January 3, 2008, notice of the Verified Complaint was sent by certified mail, return receipt requested, to: Hector Chalas, [REDACTED], Bronx, NY 10456; to Ismael Canela, [REDACTED], Bronx, NY 10452; to Edward Donlon, Esq., as counsel to Ismael Canela, at [REDACTED], NY, NY 10005; to Jesus Martinez Diaz, at [REDACTED]

██████████ Bronx, NY 10455; to Scott Schwartz, Esq. As
counsel to Jesus Martinez Diaz, at ██████████,
NY, NY 10005; to Justo Oviedo Diaz, at ██████████
██████████, Bronx, NY 10456; and to Justo Oviedo Diaz, at ██████████
██████████ New York, NY 10031;

WHEREAS, notice of the seizure and non-judicial
forfeiture was published in the Wall Street Journal once in each
of three successive weeks beginning August 27, 2007; and

WHEREAS, notice of the judicial forfeiture was
published in the New York Law Journal one time on February 13,
2008, as required under Rule G of the Supplemental Rules for
Certain Admiralty and Maritime Claims; and

WHEREAS, on or about May 30, 2008, Hector Chalas
appeared for the hearing on the Government's Motion for Default
and informed the Court of his interest in the Defendant Funds;
and

WHEREAS, Hector Chalas, admitting no wrongdoing in
connection herewith, has agreed to settle this matter; therefore

IT IS HEREBY STIPULATED, ORDERED AND AGREED, by and
between Plaintiff United States of America, by its attorney
Assistant United States Attorney, Sharon Frase, and Mr. Hector
Chalas, that:

1. Hector Chalas agrees that \$2,000.00 of the



Defendant Funds shall be forfeited to the United States, for disposition according to law, pursuant to 21 U.S.C. § 881, without admitting any liability thereunder.

2. The balance of the Defendant Funds, consisting of \$4,700.00, shall be returned to Hector Chalas, through a check issued by the United States Marshals Service, made payable to him, and mailed to him, no later than forty-five (45) days from the date this Stipulation and Order of Settlement is "so ordered" by the Court.

3. Hector Chalas is hereby barred from asserting any claim against the United States or any of its agents and employees (including, without limitation, the DEA and the United States Attorney's Office for the Southern District of New York) in connection with or arising out of the United States' seizure, restraint, and/or constructive possession of the Defendant Funds, including, without limitation, any claim that the United States did not have probable cause to seize and/or forfeit the Defendant Funds, that he is a prevailing party or that he is entitled to attorneys' fees or any award of interest.

4. Hector Chalas represents that he is the sole owner of the Defendant Funds, and agrees to hold harmless the United States and any and all of its agents and employees (including, without limitation, the DEA and the United States Attorney's Office for the Southern District of New York) from any

A handwritten signature in black ink, appearing to read "Hector Chalas", is written over a horizontal line.

and all third-party claims in connection with or arising out of the United States' seizure, restraint, and/or constructive possession of the Defendant Funds.

5. Hector Chalas hereby waives his right to file a formal claim and /or petition for remission. Furthermore, the parties hereby waive all rights to appeal or to otherwise challenge or contest the validity of this Stipulation and Order.

6. This Stipulation and Order shall in no way be deemed an admission of culpability, liability, or guilt on behalf of Hector Chalas, or of the plaintiff United States or any of their respective agents, officers or employees, past and present. Further, this Stipulation and Order shall in no way constitute

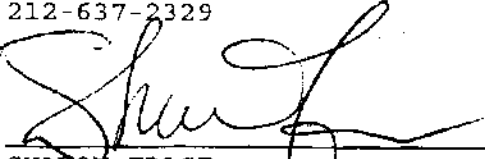
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any reflection upon the merits of the claims and defenses asserted respectively by the United States and Hector Chalas.

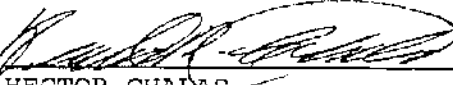
7. Each party shall bear its own costs and attorneys' fees.

Agreed and consented to:

MICHAEL J. GARCIA
United States Attorney
Southern District of New York
Attorney for the Plaintiff
One St. Andrew's Plaza
New York, New York 10007
212-637-2329

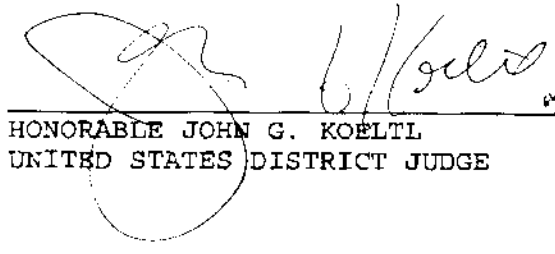

SHARON FRASE
Assistant United States Attorney

8/13/08
DATE


HECTOR CHALAS
Claimant

8/13/08
DATE

SO ORDERED:


HONORABLE JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE

8/17/08
DATE